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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,529	08/11/2000	Robert C. Beck	1480	8331

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EXAMINER

DESANTO, MATTHEW F

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/637,529

Applicant(s)

BECK, ROBERT C.

Examiner

Matthew F DeSanto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14, 19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14, 19 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 11, 19 and 23 are objected to because of the following informalities: The functional statement set forth in a "whereby" clause does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Mason, 244 F.2d 733, 114 USPQ 127 (CCPA 1957). Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regards to claim 14, the examiner is confused to what direction or orientation the axis of the catheter body is defining; a longitudinal axis along the entire length of the catheter body or another axis that projects at an angle which corresponds to the apertures.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11-13, 23, 25, and 26 rejected under 35 U.S.C. 102(b) as being anticipated by Muto (USPN 4468216).

Muto discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath (Figures 1, 2 and Entire reference).

7. Claim 11-14 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by E. C. Pilgrim (USPN 1902418).

Pilgrim discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath and wherein said aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and ninety degrees. (Figures 2, 3, 5, 6 and Entire reference)

8. Claims 11-14, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dierker (USPN 2148541).

Dierker discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath and wherein said aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and ninety degrees. (Figures 2, 5 and Entire reference)

9. Claims 11-14, 19, and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Neracher (USPN: 5135482). Neracher discloses an ablation catheter

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having a catheter having a body and catheter body have a distal tip where the distal tip has a first maximal diameter, a sheath having a internal lumen where the lumen has a diameter substantially equal to the first diameter of the ablation catheter, and where the ablation catheter is located within the sheath and adapted for motion with respect to the sheath, whereby the ablation catheter body can be moved independently of the sheath. Neracher teaches two types of internal diameter of the sheath with the ablation catheter (column 2, lines 13-53, Figures 2, 3 and 12).

He also teaches a catheter body having a proximal and distal end, where the catheter body defines an axis, and the distal end having an approximately circular cross section, with a high pressure lumen in the catheter body terminating near the distal end and the annular aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and one hundred and eighty degrees, where the annular aperture cooperating with the catheter body to direct an annular sheet of fluid emerging from the aperture along the catheter body such that the distal end is substantially encircled with fluid from the aperture (Figures 2,4, and 12); as well as where a control body surface located immediate adjacent the aperture, providing a barrier located proximate the aperture, for limiting fluid entrainment from the location of the control body, near the aperture by the jet emerging from the aperture, whereby the jet is deflected by a pressure difference across the barrier,(Figures 6 and 9) and wherein a tangent drawn to the control body surface at the location of the aperture is parallel to the aperture direction (Figure 4) and where the tangent drawn to

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the control body to the aperture is greater than zero degrees, but less than ninety degrees, (Figure 10 and entire reference).


Response to Arguments

1. Applicant's arguments filed March 3, 2003 have been fully considered but they are not persuasive.
2. The examiner finds the new language to be a little confusing. If the applicant were to clarify in such a way, that the sheath was not occluding blood flow in the vessel when the embolic material was being removed, it would be clearer to the examiner. The main reasoning is because when the catheter is being maneuvered through the vessel the balloons would not be inflated and thus would not occlude the blood flow.
3. Applicant's arguments, filed March 3, 2003, with respect to Willard et al. have been fully considered and are persuasive. The 102 Rejection has been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.


Matthew DeSanto
Art Unit 3763
June 2, 2003


BRIAN L. CASLER
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